

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PONDEXTER HOWARD,)	
)	16 C 9798
Plaintiff,)	
)	Honorable Judge
vs.)	Joan H. Lefkow
)	
THOMAS DART, et. al.,)	Jury Trial Demanded
)	
Defendants.)	

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

NOW COME Defendants THOMAS DART, Sheriff of Cook County and SUPERINTENDENT THOMAS by and through their attorney, KIMBERLY M. FOXX, State's Attorney of Cook County, through BRIAN M. CASEY, Assistant State's Attorney, and submits Defendants' Answer to Plaintiff's Complaint as follows:

STATEMENT OF CLAIM

1. While being incarcerated here at Cook County Jail I was in their Division 6 from Jan. 1, 2016 approx. till I not sure of transfer date.

ANSWER: Defendants admit that during part of his incarceration at Cook County Jail, Plaintiff was housed in Division 6.

2. While being in Div. 6 I was on tier 1Q. While there I was in a bottom deck cell that flooded on 3 occasions. (11 Jan. 2016, 21 Jan. 2016 & 29 Jan. 16)

ANSWER: Defendants deny the allegations contained in paragraph 2.

3. The toilets would erupt with water and feces and other sewage. When this would happen we would be left in the flooded cells until the officers were told to let us out of the cells. This sometimes took anywhere from 5 to 20 minutes approx.

ANSWER: Defendants deny the allegations contained in paragraph 3.

4. When we were allowed to leave the tier. Other inmates (workers) were brought in to clean up. This flooding had happened so many time previously that most of the tiles had become unglue from the floor and the ones that were still there were curled up along the edges where fecal matter and other sewage and water were trapped.

ANSWER: Defendants deny the allegations contained in paragraph 4.

5. So when these other inmates were told to clean up this area it was not nor could not be properly cleaned if tiles were not removed.

ANSWER: Defendants deny the allegations contained in paragraph 5.

6. I also questioned the inmate workers qualifications to clean up bio-hazards. On my last time being on the tier (29 Jan. 16) the Superintendent came on the tier looked into the cell while we were standing in water up to our ankle asking to be let out and said “Leave them in their cells and let them out 3 at a time and let them clean it up themselves.” This is totally unacceptable and cruel.

ANSWER: Defendants deny the allegations contained in paragraph 6.

7. I am Muslim and this caused me not to be able to pray in my cell because it was a health hazard sine I pray on the floor.

ANSWER: Defendants make no answer as to the allegations contained in paragraph 7 as those allegations were dismissed by the Court pursuant to its section 1915(a) review.

8. I wrote several grievances with unsatisfactory responses.

ANSWER: Defendants deny the allegations contained in paragraph 8.

AFFIRMATIVE DEFENSES

Defendants offer the following affirmative defenses to Plaintiff’s allegations:

1. Defendant Thomas' conduct was at all times objectively reasonable and did not violate any of Plaintiff's clearly established Constitutional rights. Accordingly, Defendant Thomas is entitled to the defense of Qualified Immunity.

2. To the extent that Defendant Dart is named in his official capacity, he is immune from punitive damage awards. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 101 S. Ct. 2748 (1981).

3. Plaintiff failed to exhaust the administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. Sec. 1997 (e) (a). *See Dale v. Lappin*, 376 F. 3d 652, 655 (7th Cir. 2004).

JURY DEMAND

With regard to any issue that may be appropriately heard by a jury in this cause of action, Defendants hereby demand a jury trial.

Respectfully Submitted,

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State's Attorney of Cook County

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